

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 45 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

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COMMISSIONER OF INCOME-TAX

Versus

ACEY ENGINEERING PVT LTD

Appearance:

MR MANISH R BHATT for Petitioner
SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

At the instance of the Revenue, the following question is referred to this Court under Section 256 (1) of the Income Tax Act, 1961 : -

"Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in allowing the depreciation on the total cost of the assets without deducting there from the amount of subsidy received by the assessee from the Govt. to arrive at the 'Actual Cost' of the asset as provided for u/s. 43(1) of the I.T.Act?"

2. The Tribunal decided the controversy following the decision of this Court in the case of CIT Vs. Grace Paper Industries Pvt. Ltd. reported in (1990) 183 ITR 591. This case is also covered by the decision of the Apex Court in the case of CIT Vs. P.J.Chemicals, reported in 210 ITR 830. Hence, the question is required to be answered against the Revenue and in favour of the

Assessee. Accordingly, we answer the question in favour of the Assessee and against the Revenue. This reference is disposed of accordingly with no order as to costs.
